

REMARKS

Applicant submits this Reply to the Office Action mailed April 8, 2008. By this Reply, Applicant has amended claim 1, 9, and 39. Accordingly, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 remain pending. The originally-filed specification, drawings, and claims fully support the subject matter of amended claims 1, 9, and 39. Thus, the Reply introduces no new matter.

In the Office Action, claim 39 was objected to for certain informalities. Specifically, the Office Action noted that “[s]ince the body of the claim recites various means-plus-function elements, it appears that claim 39 should be an apparatus/system claim instead of a method claim.” Office Action at 2. Applicant has amended claim 39 as suggested by the Examiner and respectfully requests withdrawal of the objection.

In the Office Action, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Harte et al., “Quality Improvement in a Safety, Engineering and Management Consultancy - Part 2,” (“Harte”) in view of Official Notice. Applicant respectfully traverses the rejection for the reasons provided below.

To establish a *prima facie* case of obviousness the Examiner must consider all the features of the claim. M.P.E.P. § 2143.03. Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection because Harte and the Official Notice do not disclose or suggest each of the features of the claims.

For example, independent claim 1 recites, among other things, “automatically selecting a first action corresponding to the identified at least one theme in reply to receiving the report, collecting responses from members of the organization reflecting a

performance of implementing the first action in the organization, and sorting the collected responses to identify an effect of the implemented first action on the organization based on the responses having a high frequency of occurrence.” Harte discloses that “[f]ollowing the reporting of the survey results a meeting with the managing director was held to review their implications.” Harte, paragraph 13. Harte states that “[t]he discussions with the managing director identified seven areas where staff attitudes and perceptions were thought to require refocusing.” Harte, paragraph 22. Harte further states that “the managing director considered it useful to follow-up with a series of section and group review meetings.” *Id.* Harte does not disclose or suggest, among other things, “collecting responses from members of the organization reflecting a performance of implementing the first action in the organization,” as recited in claim 1.

The Office Action alleges that paragraphs 22-37 of Harte disclose the above feature. Applicant respectfully disagrees. The cited portions of Harte appear to discuss identifying areas that require refocusing based on the initial survey results. Thus, Harte fails to disclose or suggest “automatically selecting a first action corresponding to the identified at least one theme in reply to receiving the report, collecting responses from members of the organization reflecting a performance of implementing the first action in the organization, and sorting the collected responses to identify an effect of the implemented first action on the organization based on the responses having a high frequency of occurrence.”

The Official Notice taken by the Examiner does not cure the deficiencies noted above regarding Harte. Indeed, the Office Action does not rely on the Official Notice for

disclosing the above steps of claim 1. Instead, the Official Notice alleges that “it was old and well known in the art of data processing to utilize a computer to perform calculations, data gathering, data analysis, and report generation” Office Action at 6. Even assuming this allegation is correct, which Applicant does not concede, it does not constitute a teaching of the above recitation of claim 1. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claim 1 and its dependent claims 2-8.

Moreover, the Office Action admits that Harte “does not explicitly disclose that such a step is performed ‘automatically.’” Office Action at 5. Notwithstanding, the Office Action states that:

If “automatic” is interpreted to simply mean that the step of selecting is performed in immediate response to previous steps, then Harte does perform the step of “automatically” selecting a first action corresponding to the identified theme ... However, if “automatically” is interpreted as through use of a computer, then Harte does not expressly disclose the step of selecting a first action ... Official Notice is taken that it was old and well known in the art of data processing to utilize a computer to perform calculations, data gathering, data analysis, and report generation.”

Office Action at pages 5-6. Applicant respectfully disagrees.

Notably, the Office Action does not contend that the step of “automatically selecting a first action corresponding to the identified theme in reply to receiving the report,” as recited in independent claim 1 was old and well known. The Office Action appears to argue that utilizing a computer in the art of data processing was well known. Applicant’s claimed invention recites an automated step of “selecting a first action corresponding to the identified theme in reply to receiving the report.” This step does not involve performing calculations, data gathering, data analysis, or report generation,

activities the Office Action alleges are well known in the art of data processing, which Applicant does not concede. For this additional reason, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claim 1 and its dependent claims 2-8.

Independent claims 9, 16, 23, 37, and 39, although of different scope, recite features similar to the above recitation of claim 1. Accordingly, Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection of independent claims 9, 16, 23, 37, and 39 and their dependent claims 10-12, 17-19, 24-26, 41, and 42.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

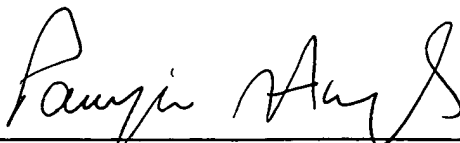
Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: September 8, 2008

By: _____



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